

PATENT COOPERATION TREATY

TRANSLATION

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

Date of mailing **See form PCT/ISA/210**
(day/month/year)

Applicant's or agent's file reference

101-28. B. WO

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/IB2005/050704

International filing date (day/month/year)

26.02.2005

Priority date (day/month/year)

01.03.2004

International Patent Classification (IPC) or both national classification and IPC

B65D35/08, B65D35/10, B29C43/02, B29C43/20, B29C43/36

Applicant

AISAPACK HOLDING S.A.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the choice IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

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Box No. I

Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐

This opinion has been established on the basis of a translation from the original language into the following language:

_____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐

a sequence listing

☐

table(s) related to the sequence listing

b. format of material

☐

in written format

☐

in computer readable form

c. time of filing/furnishing

☐

contained in the international application as filed.

☐

filed together with the international application in computer readable form.

☐

furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed, or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

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Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement			
Novelty (N)	Claims	<u>1-11</u>	YES
	Claims	<u>12</u>	NO
Inventive step (IS)	Claims	<u>1-11</u>	YES
	Claims	<u>12</u>	NO
Industrial applicability (IA)	Claims	<u>1-12</u>	YES
	Claims		NO

2. Citations and explanations:

1. Reference is made to the following documents in the present notification:

D1: JP-A-02098415

D2: US-A-2002/109267

D3: FR-A-2 659 267

D4: WO-A-98/56556

2. The following statements are made, taking into account Box VIII.

2.1 Independent claim 1.

Document D1 describes (the references between parentheses apply to this document): a multilayer structure made of a synthetic resin, bounded by an upper face, borders and a lower face of substantially the same area as that of the upper face (*figure 5*), said structure comprising: a first layer defining said faces and said borders, a second layer, placed between said faces and said borders, of area at least equal to that of said faces (*abstract, figure 5*).

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citations and explanations supporting such statement

Consequently, the subject matter of independent claim 1 differs from this known D1 in that the second layer forms at least one zig-zagged double pleat.

The subject matter of claim 1 is therefore novel (PCT Article 33(2)).

The problem that the present invention is intended to solve can thus be considered to be how to improve the barrier properties of said multilayer article (description, page 2, lines 33-37).

The solution as proposed in claim 1 of the present application is neither known nor suggested by the available prior art. The subject matter of claim 1 is considered to involve an inventive step (PCT Article 33(3)).

2.2 Independent claim 8

Document D1 describes (the references between parentheses apply to this document): a process for manufacturing a multilayer structure made of synthetic resin by compression moulding of a metered multilayer quantity of molten resin (*abstract, figures 4, 5*); consisting in extruding, continuously or discontinuously, a metered multilayer quantity of thermoplastic resins comprising at least one functional resin layer (*abstract, figure 4*), in feeding said metered quantity into a compression

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device, and in compressing said metered quantity in the device so as to obtain the article (*abstract, figures 3a-3d*).

Consequently, the subject matter of independent claim 8 differs from this known D1 in that one portion of the functional layer is driven towards the periphery and another portion towards the centre, the functional layer thus obtained in the article by said process forming at least one zig-zagged double pleat.

The subject matter of claim 8 is therefore novel (PCT Article 33(2)).

The problem that the present invention is intended to solve can thus be considered to be how to improve the barrier properties of said multilayer article (description, page 2, lines 33-37).

The solution, as proposed in claim 8 of the present application, is not known or suggested by the available prior art. The subject matter of claim 8 is considered to involve an inventive step (PCT Article 33(3)).

2.3 Independent claim 12

Document D2 describes (the references between parentheses apply to this document): a device for producing multilayer structures, which further includes a mould and means for compressing a metered

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quantity in the cavity of said mould (page 4,
- paragraph 44, figure 1) and includes parts in
relative movement (page 4, paragraphs 46-50,
figures 2-4).

The subject matter of claim 12 is therefore not
novel (PCT Article 33(2)).

Documents D3 and D4 also disclose all the technical
features of claim 12, see the International Search
Report.

3. Dependent claims 2-7 and 9-11

Claims 2-7 and 9-11 are dependent on claims 1 and 8
and therefore also comply, as such, with the
requirements of novelty and inventive step of the
PCT.

4. The subject matter of claims 1 to 12 is industrially
applicable (PCT Article 33(4)).

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Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

1. Contrary to the requirements of PCT Rule 5.1(a)(ii), the relevant prior art disclosed in documents D2, D3 and D4 is not mentioned in the description, nor are these documents identified therein.
2. A computer translation of document D1 can be obtained free of charge from the JPO Internet site at the following address:
[http://www4.ipdl.jpo.go.jp/Tokujitu/tjsogodben.ipdl?](http://www4.ipdl.jpo.go.jp/Tokujitu/tjsogodben.ipdl?N0000=115)
N0000=115

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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

The following comments are made with regard to PCT Article 6.

1. The term "substantially" used in claim 1 leads to a lack of clarity in the definition of this claim, *cf.* PCT Directives 5.38.
2. Claim 12 fails to comply with the requirements of PCT Article 6 in so far as the subject matter for which protection is sought has not been clearly defined. The claim attempts to define said subject matter by the result to be achieved "... *in relative movement in order to control the flow of the functional layer towards the centre or towards the periphery.*", yet this merely amounts to stating the basic problem the invention is intended to solve, without the technical features needed to achieve this result being provided.